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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

14 PINOLEVILLE POMO NATION, *et al.*,

15 Plaintiffs,

16 v.

17 UKIAH AUTO DISMANTLERS, *et al.*,

18 Defendants.

19 RICHARD MAYFIELD

20 Cross-Claimant,

21 v.

22 PINOLEVILLE POMO NATION;
23 PINOLEVILLE POMO NATION
24 ENVIRONMENTAL ASSOCIATION;
25 LEONA WILLIAMS; and, UKIAH AUTO
DISMANTLERS,

Cross-Defendants.

Case No.: C-07-2648 SI

SUPPLEMENTAL DECLARATION OF
HANS W. HERB IN OPPOSITION TO
GRANT OF PRELIMINARY INJUNCTION

Date: June 25, 2008
Time: 1:30 p.m.
Dept: C, 15th Floor

Hon, Susan Illston

26 1. I am attorney at law, duly licensed to practice before all state and federal
27 courts in the State of California. I am competent to testify and, if called upon to do so,
28 could testify truthfully to the facts contained herein.

26 2. I am counsel for defendant and cross-complainant Richard "Rick"
27 Mayfield.

3. Attached hereto as Exhibit A is a true and complete copy of a telephone message left on my voicemail on June 11, 2008, by counsel for the plaintiffs herein.

4. The Court's attention is directed to the third paragraph, wherein Mr. Biggs stated:

Anyway, also to let you know, um, well, by now you should have read, ah, the case with Judge Lynch back in the '80s, and you probably read the transcripts like I did where the Mayfields are in there making fools out of themselves with all this libertarian talk and the judge totally reamed their assholes, and basically told 'em they were assholes, and, uh, said that they need to follow the ordinances of the tribe. Well, I'm pleased to let you know that we just drafted ordinances zoning them out of existence. So, um, you're gonna have to contend with that. (Emphasis added.)

5. As can be seen, plaintiffs have “drafted ordinances zoning [the Mayfields] out of existence.” As such, there is an additional reason for the Court to now conclude that the matter is **moot**.

I declare under penalty of perjury that the foregoing is true and correct. Executed at Santa Rosa, California, this 20th day of June, 2008.

/s/

Hans W. Herb

EXHIBIT A

Telephone message from Michael Biggs

June 11, 2008

12:15 p.m.

(Our Opposition & Supporting Decls were filed at 11:15, 11:46 12:16 p.m.)

Michael Biggs. How are ya? I just read, um, your answer and am very pleased to see that your clients walked right down the road I wanted them to walk.

By the way, we're filing an amended complaint. We had surveyors out there, and it seems that defendants have stolen 30,000 square feet of United States land. Interesting, huh?

Anyway, also to let you know, um, well, by now you should have read, ah, the case with Judge Lynch back in the '80s, and you probably read the transcripts like I did where the Mayfields are in there making fools out of themselves with all this libertarian talk and the judge totally reamed their assholes, and basically told 'em they were assholes, and, uh, said that they need to follow the ordinances of the tribe. Well, I'm pleased to let you know that we just drafted ordinances zoning them out of existence. So, um, you're gonna have to contend with that.

Also, this allegation about polluting. Well, that's fraudulent and very soon you're gonna get paper from me about preliminary Rule II sanctions on your client for filing false claims.

Next, about John Short's letter. Really disappointing; the guy's incompetent. That whole office incompetent. I might have told you that out of 36 injunctions in the last five years under these kind of conditions, uh, the defendants 33 out of 36 timed were the EPA and the Corps of Engineers, because they don't follow the law, and, uh, we have that as we need.

Finally, I think you're giving your clients very bad advice. I'm sure you've read George's declaration. It's only a fraction of his experience. Um, in looking at this, we're estimating the cleanup for removal of soil to be in excess of \$30 million. We're gonna ask your clients to pay it. Uh, in the settlement negotiations, where you violated Rule 404, um, we offered to take that liability away from them. I'm not sure you made them understand that. I would encourage you to make them understand that.

Anyway, you'll be getting an answer on this, uh, we're going to file a motion for the amended complaint, and, uh, put on the encroachment on the United States land. We have authority to do that. I already cleared that with BIA out of Washington and the Regional Director, Troy Burdick, and, uh, we're also going to name additional defendants, uh, Brent Mayfield is one of 'em, and, uh, we've been playing around, Hans. Now we're gonna start getting warmed up and then pretty soon we'll start playin' hardball. So get ready for a good workout. You're a good lawyer and I enjoy working with you. Alright, bye sir.